

**FE 6057 (US)**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re patent application of

**Massimo COVEZZI et al.**

Serial No. **10/530,597**

Filed **April 7, 2005**

For **POLYMERIZATION PROCESS**

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) Art Unit 1713  
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) Examiner **F. M. Teskin**  
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Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**TRANSMITTAL LETTER**

Submitted herewith for filing in the U.S. Patent and Trademark Office are the following:

- ☒ Postcard
- ☒ Transmittal Letter
- ☒ Response to Election Requirement (**5** pages)

Respectfully submitted,

**MASSIMO COVEZZI ET AL.**

By

**Jarrod N. Raphael**  
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Basell USA Inc.  
912 Appleton Road  
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Date: **July 30, 2007**



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Attorney Docket No. FE 6057

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:  
Massimo COVEZZI, et al.

Serial No.: 10/530,597

Group Art Unit: 1713

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Examiner: F.M. TESKIN

For: POLYMERIZATION PROCESS

RESPONSE TO ELECTION REQUIREMENT

Assistant Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This is in response to the Office Action dated June 28, 2007.  
The one month shortened statutory period for response is set to  
expire on July 28, 2007, thus this response is timely filed.

SUMMARY OF ELECTION REQUIREMENT

Species Election. The Examiner has required a species election.  
As the basis for the species election, the Official Action states  
the following:

This application contains claims directed to the following  
patentably distinct species of the claimed invention:

Species I: As shown in Figure 1;

Species II: As shown in Figure 2;

Species III: As shown in Figure 3;

Species IV: As shown in Figure 4;

Species V: As shown in Figure 5.

Species I-V are independent or distinct because of their mutually exclusive structural features, such that a prior art reference anticipating the claims with respect to one of the species would not render the claims obvious (35 U.S.C. 103(a)) with respect to the other species.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1 and 28 appear to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP §809.02(a).

#### **PROVISIONAL ELECTION**

Applicant provisionally elects species I. Applicant respectfully believes claims 19-21 are readable on the elected species. Additionally, given the Examiner's contention that claims 1 and 28 appear to be generic, Applicant respectfully believes claims 1-18 and 28 should currently be examined with claims 19-21.

TRAVERSAL

Applicants respectfully traverse the Examiner's election requirement.

First, the election requirement is traversed because the Examiner has not met the burden of showing that the claims outline different inventions, which are unrelated. Applicant is entitled to a patent for process and apparatus for its practice. See MPEP §806.05(e). The Examiner is left with the burden of proving that the process and apparatus for its practice are separate and distinct inventions.

Additionally, the election requirement is traversed because it omits "reasons and/or examples" as to the existence of a "serious burden" if a restriction were not required. See MPEP §803, §803(I), and §803(II). Regardless of any differences that may exist between the inventive subject matter set forth in the claims, a complete and thorough search for the inventive subject matter set forth in any one of the designated species would require searching the art areas appropriate to the other species. Since a search of each of the species, as segregated by the Examiner would be coextensive, Applicant respectfully believes it would not be a serious burden upon the Examiner to examine all of the claims in this application.

Further at the Examiner's disposal are powerful electronic search engines providing the Examiner with the ability to quickly

and easily search all of the claims. Considering that the Examiner will most likely undertake a search for the process claims 1-18, searching for apparatus for carrying out the process would be minimally burdensome on the Examiner.

Moreover, the fact that various claims may fall under different U.S. Patent and Trademark Office classes does not necessarily make them independent or distinct inventions. The classification system at the U.S. Patent and Trademark Office is based in part upon administrative concerns and is not necessarily indicative of separate inventive subject matter in all cases.

Furthermore, Applicant has paid a filing fee for an examination of all the claims in this application. If the Examiner refuses to examine the claims paid for when filing this application and persists in requiring applicants to file a divisional application for the group of non-elected or withdrawn claims, the Examiner would essentially be forcing Applicant to pay duplicative fees for the non-elected or withdrawn claims, inasmuch as the original filing fees for the claims (which would be later prosecuted in a divisional application) are not refundable.

In view of the foregoing, Applicant respectfully requests the Examiner to reconsider and withdraw the species election, and to examine all of the claims pending in this application.

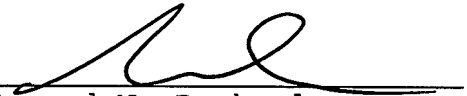
If the Examiner has any questions or comments regarding this matter, he is welcomed to contact the undersigned practitioner at the

Serial No. 10/530,597

number listed below.

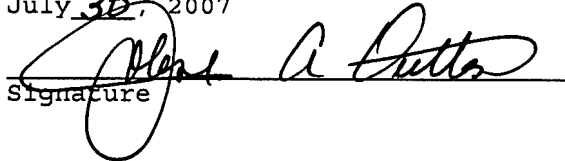
Respectfully submitted,

By:

  
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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on July 30, 2007

  
Signature

July 30 2007  
Date